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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 2

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Mr. Bossuyt, Ms. Daes, Mr. Eide, Mr. Joinet, Ms. Palley
and Mr. Weissbrodt: draft resolution

1997/... Situation of human rights in Turkey

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming that all Member States have an obligation to promote and protect human rights as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights and other applicable human rights instruments,

Mindful that Turkey is a party to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the European Convention on Human Rights, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the four Geneva Conventions of 1949,

Recalling that the Committee against Torture stated in 1993, after making its first on-site visit to any country, that torture was "systematic" in Turkey (A/48/44/Add.1),

Recalling also the concerns expressed in recent years by the Special Rapporteur on the question of torture; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Enforced or Involuntary Disappearances; and the Working Group on Arbitrary Detention of the Commission on Human Rights,

Recalling further the concern expressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, following his visit to Turkey from 20 to 25 September 1996, at consistent and credible reports about the harassment, persecution and sometimes death or torture of press professionals, writers, journalists, human rights advocates and witnesses to alleged human rights violations, and the use of disproportionate violence against journalists and protesters during demonstrations (E/CN.4/1997/31/Add.1),

Aware that the European Committee for the Prevention of Torture described the incidence of torture and other ill-treatment in Turkey as "widespread" (1992) and a "common occurrence in police establishments in Turkey" (1996) and that the European Court of Human Rights found violations involving forced eviction and destruction of villages in south-east Turkey (Akdivar and others v. Turkey (1996)),

1. Welcomes:

(a) The amendments to the Turkish Constitution and to articles 8 and 13 of the Anti-Terror Law of 1991 which the Government of Turkey adopted in 1995, seeking to make those provisions compatible with its international human rights obligations, as well as the adoption in 1997 of new provisions by which the Government of Turkey sought to reduce periods of pre-trial detention, ensure the right of the detainee to legal assistance during pre-trial questioning, limit the competence of the State Security Courts and establish the Human Rights Coordinating Committee;

(b) The invitation by the Government of Turkey to the Working Group on Enforced or Involuntary Disappearances to visit Turkey by the end of 1997 and to the Special Rapporteur on the question of torture to visit the country by

the end of 1998, and its full cooperation with the Special Rapporteur on freedom of opinion and expression during his visit to the country from 20 to 25 September 1996;

2. Expresses its concern:

(a) At reports of continuing violations of human rights and international humanitarian law, in particular systematic torture and ill-treatment in several parts of Turkey, extrajudicial executions, forced evictions, the destruction of villages, and arbitrary arrests and imprisonment of individuals exercising their right to freedom of expression;

(b) That, although much of the legal and regulatory framework necessary to combat torture is in place in Turkey, those measures have been ignored in practice, grave violations continue and the responsible persons apparently enjoy impunity;

(c) That the 1995 amendments to the Constitution and the Anti-Terror Law have not brought about fundamental change: non-violent statements, for example, about finding a just resolution of the Kurdish problem, other "separatist" statements, and even political cartoons critical of the Government remain criminal offences under the Penal Code or Anti-Terror Law and some individuals, including a parliamentarian, are still sentenced to prison terms for exercising their freedom of expression;

3. Condemns human rights abuses and violations of humanitarian law by the Kurdish Worker's Party (PKK), including assassination of individuals in several countries, forced recruitment of children to participate in fighting, threats and extortion, destruction of villages and abduction and killing of civilians, including women, children and, in particular, members of the extended families of village guards and teachers; but believes such abuses by armed opposition groups and terrorist acts should not provide the occasion or excuse for violations of non-derogable human rights and international humanitarian law;

4. Calls upon the Government of Turkey:

(a) To abide by its freely undertaken obligations under international human rights treaties and humanitarian law which, under the terms of article 90 of the Turkish Constitution, form an integral part of Turkish domestic law, in particular by respecting the right of all persons not to be

subjected to extrajudicial execution, torture and ill-treatment, involuntary disappearance, arbitrary arrest and imprisonment, forced eviction, the destruction of villages or infringements of freedom of expression;

(b) To ensure thorough and impartial investigations into all allegations of human rights violations and to bring the perpetrators to justice;

(c) To ensure that human rights and health organizations, including doctors and lawyers working on human rights cases, are free and able to perform their professional functions without intimidation, hindrance, harassment, or improper interference;

(d) To provide access for and to cooperate with a recognized humanitarian body in protecting the rights of detainees throughout the country and contributing to the protection of the civilian population in the south-east of the country;

(e) To accede to the International Covenant on Civil and Political Rights, its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights and the two Additional Protocols of 1977 to the Geneva Conventions of 1949, and to recognize the application of common article 3 of the Geneva Conventions to the armed conflict which is occurring in south-eastern Turkey, bearing in mind that article 3 states that the application of the preceding provisions shall not affect the legal status of the Parties to the conflict;

(f) To invite the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as the Working Group on Arbitrary Detention, to visit the country in due course and to permit independent investigation of reports that the PKK has committed violations of humanitarian law and abuses of human rights;

5. Decides:

(a) To recommend that the Commission on Human Rights consider the situation of human rights in Turkey at its next session; and

(b) If the Commission is unable to take action on the situation of human rights in Turkey, to continue consideration of the matter at its fiftieth session under the same agenda item.